Remarks:

In Paragraph 1, the Office Action asserts that a restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 35-40 ("Invention 1");

II. Claims 41-45 ("Invention 2"); and

III. Claims 46-53 ("Invention 3").

While the Office Action states that the three inventions are all drawn to a method of determining bias in a measurement of a constituent concentration level in a sample gas in an emission monitoring system, classified in class 73, subclass 23.31, the Office Action nonetheless asserts that the inventions are distinct and unrelated because they have different modes of operation. In Paragraph 2, the Office Action makes this determination based on two assertions: (1) Invention 2 "requires steps for measuring a sample flow rate of the cooled, dried sample gas flow and a combined gas flow rate of the cooled, dried, combined sample and span gas flow," whereas Inventions 1 and 3 do not require these steps; and (2) Invention 3 "specifically requires the use of a dryer," whereas Inventions 1 and 2 do not require this use.

The Applicants respectfully traverse this Restriction as the claim groups identified by the Examiner are clearly related. Regarding the first assertion above, the claim group identified as "Invention 1" includes dependent Claim 36, and the claim group identified as "Invention 3" includes dependent Claim 49, which both specifically recite "measuring a

sample flow rate of the cooled, dried sample gas flow; and measuring a combined gas flow rate of the cooled, dried, combined sample and span gas flow." Regarding the second assertion, the claim group identified as "Invention 1" includes independent Claim 35 and the claim group identified as "Invention 2" includes independent Claim 41, which both recite "removing water from the sample gas flow . . . to produce a . . . dried sample gas flow."

Because inventions are unrelated only if they are "unconnected in design, operation, *and* effect,"[1] Inventions 1, 2, and 3 are clearly related. The Applicants therefore respectfully request that the restriction be reconsidered and withdrawn, and all of claims 35-53 be examined, allowed, and passed to issue.

Notwithstanding the above, and in accordance with 37 C.F.R. § 1.143, the Applicants provisionally elect the claim group identified as "Invention 1" (i.e., claims 35-40) for prosecution in the event the Restriction is not withdrawn. Should the Examiner believe anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact the Applicants' undersigned representative.

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[1] MPEP § 806.06. It is noted that while the Office Action provides that "[i]nventions are unrelated if it can be shown . . . they have different modes of operation, different functions, *or* different effects," (emphasis added), the MPEP makes clear that the showing must be "different modes of operation, different functions *and* different effects." MPEP § 806.06 (emphasis added).

Respectfully submitted,

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